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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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EXAMINER

KIM, CHRISTOPHER S

ART UNIT	PAPER NUMBER
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3752

DATE MAILED: 08/01/2003

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Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Applicati n No.

09/785,962

Applicant(s)

FELLER ET AL.

Examiner

Christopher S. Kim

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 06 June 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 3-17 and 35-46 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 44 and 45 is/are allowed.
- 6) ☒ Claim(s) 3-6, 8-10, 12-17, 35-42 and 46 is/are rejected.
- 7) ☒ Claim(s) 7 and 11 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Response to Amendment***

1. Amendment filed June 6, 2003 is acknowledged.
2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
3. It should be noted that the claim amendments do not accurately reflect the claims nor the changes made to the claims. For example, in claim 5, the deletion of "the" before "housing" appears to be unintentional. "Shaped" after "fan" is lined out but the original claim reads "type."
4. The amendment contains two claims numbered "37." Claims 37 (second 37) through 46 have been renumbered 38-46 per 37 CFR 1.126. Dependencies of claims 39 and 40 (renumbered 40 and 41) have also been changed.

### ***Claim Rejections - 35 USC § 112***

5. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

6. Claims 3-17 and 35-42 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application

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was filed, had possession of the claimed invention. The disclosure, as originally filed, does not disclose "said nozzle housing having a braking discharge opening extending through said housing at an angular orientation relative to a line extending between said axis of rotation and said braking discharge orifice different from the angular orientation of said at least one nozzle orifice for discharging fluid from said nozzle housing and for retarding the rotation of said nozzle housing as an incident to the direction of pressurized fluid through said nozzle housing and braking discharge opening" recited in claim 35.

7. Claims 5, 39-40, 43 and 46 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 5 recites the limitation "housing" in line 2. This appears to be a double inclusion of the "rotatable nozzle housing" recited in claim 35.

Claim 38 recites "said housing is formed with two said nozzle orifices." Its parent claim 35 recites "at least one nozzle orifice." It is uncertain how many nozzle orifices are being claimed. For example, if three nozzle orifices constitute "at least one nozzle orifice," does claim 39 require two nozzle orifices or six nozzle orifices?

Claim 43 recites the limitation "said braking discharge orifice" in lines 1-2. There is insufficient antecedent basis for this limitation in the claim.

Claim 46 recites the limitation "said torque-generating device" in line 6. There is insufficient antecedent basis for this limitation in the claim.

***Claim Rejections - 35 USC § 102***

8. Claims 4-6, 8-10, 12-16, 35, 37, 39 and 42 are rejected under 35 U.S.C. 102(b) as being anticipated by Jones (10,051).

Jones discloses a nozzle comprising: a rotatable nozzle body B; a first fluid drive c; a braking device C.

***Claim Rejections - 35 USC § 103***

9. Claims 3, 36, 38, 40, 41, 43 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jones (10,051).

With respect to claim 3, Jones discloses the limitations of the claimed invention with the exception of the corrosion-resistant metal. Corrosion-resistant metal is well known in the art. It would have been obvious to a person having ordinary skill in the art at the time of the invention to have made the nozzle of Jones from corrosion-resistant metal to prevent corrosion.

With respect to claims 36, 38, 40 and 41, Jones discloses the limitations of the claimed invention with the exception of the axial position of the braking discharge opening and the nozzle orifices. Axial positioning of the braking discharge opening and the nozzle orifices are mere relocation of parts. It would have been obvious to a person having ordinary skill in the art at the time of the invention to have axially located the braking discharge opening and the nozzle orifices for variations in spray patterns.

With respect to claim 43, Jones discloses the claimed invention except for the braking discharge orifice having an elongated configuration. It would have been

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obvious to a person having ordinary skill in the art at the time the invention was made to have provided an elongated braking discharge orifice, since it has been held that a mere change in shape involves only routine skill in the art. *In re Dailey*, 357 F.2d 669, 149 USPQ 47 (CCPA 1966).

10. Claim 17 is rejected under 35 U.S.C. 103(a) as being unpatentable over Jones (10,051) in view of Bender (3,809,317).

Jones discloses the limitations of the claimed invention with the exception of the fluid leak. Bender discloses a gap 7 for fluid leak. It would have been obvious to a person having ordinary skill in the art at the time of the invention to have provided a fluid leak to the device of Jones as taught by Bender to provide a fluid bearing.

#### ***Allowable Subject Matter***

11. Claims 7 and 11 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

12. Claims 44 and 45 are allowed.

#### ***Response to Arguments***

13. Applicant's arguments filed June 6, 2003 have been fully considered but they are not persuasive.

In response to applicant's argument that Jones does not disclose braking discharge orifice oriented differently from the nozzle orifice, applicant fails to define "a

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line" extending between said axis of rotation and the nozzle/braking discharge orifices. There are an infinite number of lines which extend between the axis of rotation and the nozzle orifice. There are also an infinite number of lines which extend between the axis of rotation and the braking discharge orifice. A line which extends between the axis of rotation and the center of the nozzle orifice will result in a different angular orientation of the nozzle orifice than the angular orientation of the braking discharge orifice which results from a line extending between the axis of rotation and the circumference of the braking discharge orifice in the device of Jones.

### ***Conclusion***

14. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).


A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher S. Kim whose telephone number is (703) 308-8336. The examiner can normally be reached on Monday - Thursday, 6:30 AM - 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Y. Mar can be reached on (703) 308-2087. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9302 for regular communications and (703) 872-9303 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.



Christopher S. Kim  
Primary Examiner  
Art Unit 3752

CK  
July 31, 2003